

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #09	CCRB Case #: 202107240	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/28/2021 12:20 AM, Wednesday, 03/23/2022 11:02 AM, Thursday, 05/19/2022 10:30 AM	Location of Incident: On Beverly Road, next to 1060 Flatbush Avenue; CCRB	18 Mo. SOL 5/28/2023	Precinct: 70		
Date/Time CV Reported Mon, 11/29/2021 8:09 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 11/29/2021 8:09 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Adan Suazorodas	10750	963771	070 PCT
2. PO Marc Fontana	16274	951741	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Larry Simpson	04899	952243	070 PCT
2. PO Jair Flores	22120	959637	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Adan Suazorodas	Abuse: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Adan Suazorodas inappropriately touched § 87(2)(b)	
B . PO Marc Fontana	Abuse: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana interfered with § 87(2)(b) use of a recording device.	
C . PO Marc Fontana	Force: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana used physical force against § 87(2)(b)	
D . PO Marc Fontana	Abuse: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana damaged § 87(2)(b) property.	
E . PO Marc Fontana	Discourtesy: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana spoke discourteously to § 87(2)(b)	
F . PO Adan Suazorodas	Untruthful Stmt.: On March 23, 2022, at the CCRB, Police Officer Adan Suazorodas provided a false official statement to the CCRB.	
G . PO Marc Fontana	Untruthful Stmt.: On May 19, 2022, at the CCRB, Police Officer Marc Fontana provided a false official statement to the CCRB.	

Case Summary

On November 29, 2021, § 87(2)(b) filed this complaint with the CCRB via both the online form and the call processing system.

On November 28, 2021, at approximately 00:20, Sergeant Larry Simpson, Police Officer Marc Fontana, and Police Officer Adan Suazorodas, all of the 70th Precinct, arrested and released § 87(2)(b) outside of 1060 Flatbush Avenue in Brooklyn. During the encounter, PO Suazorodas inappropriately touched § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)) and PO Fontana interfered with § 87(2)(b) use of a recording device (**Allegation B: Abuse of Authority**, § 87(2)(g)). § 87(2)(g) used physical force against § 87(2)(b) (**Allegation C: Force**, § 87(2)(g)), damaged § 87(2)(b) property (**Allegation D: Abuse of Authority**, § 87(2)(g)) and spoke discourteously to § 87(2)(b) (**Allegation E: Discourtesy**, § 87(2)(g)).

On March 23, 2022, while testifying at the CCRB, PO Suazorodas provided a false official statement to the CCRB (**Allegation F: Untruthful Statement**, § 87(2)(g)).

On May 19, 2022, while testifying at the CCRB, PO Fontana provided a false official statement to the CCRB. (**Allegation G: Untruthful Statement**, § 87(2)(g)).

Officers arrested and released § 87(2)(b) on scene during this incident. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) provided the investigation with a photograph of his damaged property. (BR 02)

On January 3, 2022, NYPD Legal provided four body-worn camera (BWC) videos related to this incident, including videos from PO Suazorodas (BR 03), PO Fontana (BR 04), and Sergeant Simpson (BR 05).

The investigation obtained relevant commercial surveillance footage of this incident from a barbershop § 87(2)(b) in Brooklyn (BR 06).

The investigation obtained relevant ARGUS footage of this incident from the camera at the corner of Flatbush Avenue and Beverly Road in Brooklyn (BR 07). The investigation created a copy of the ARGUS footage in MP4 format for ease of review. (BR 08)

Findings and Recommendations

Allegation (A) Abuse of Authority: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Adan Suazorodas inappropriately touched § 87(2)(b)

It is undisputed that on November 28, 2021, at twenty minutes past midnight, Sergeant Simpson, PO Suazorodas, and PO Fontana arrested, searched, and released § 87(2)(b) outside 1060 Flatbush Avenue.

§ 87(2)(b) stated to the CCRB that while PO Suazorodas was searching him, PO Suazorodas grabbed § 87(2)(b) penis multiple times and pulled on § 87(2)(b) testicles. (BR 09)

PO Suazorodas's BWC captures PO Suazorodas interacting with § 87(2)(b) groin between 3:15 and 4:23 (BR 03). Beginning at approximately 3:15, PO Suazorodas orders § 87(2)(b) "spread your legs for me." PO Suazorodas uses his right hand to pinch § 87(2)(b) groin on § 87(2)(b) right side and pulls back and forth at least two times. He releases his grip on the right side of § 87(2)(b) groin and at 3:19 pinches the left side of § 87(2)(b) groin two times. PO Suazorodas releases his grip and grabs the right side of § 87(2)(b) groin two more times. While this occurs § 87(2)(b) says, "grabbing... yo, man." § 87(2)(b) does not move. After these initial interactions with § 87(2)(b) groin, beginning at 3:23, PO Suazorodas asks § 87(2)(b) "why you flinching like that? You got anything on you?" § 87(2)(b) states, "No, man! I'm just saying, you grabbing my fucking drawers and all of that... that shit is crazy." § 87(2)(b) does not move.

Beginning at 3:27 of PO Suazorodas' BWC, PO Suazorodas' arms can be seen at the front-lower part of his body and waist area (BR 03). At 3:38, PO Suazorodas can be seen interacting with

§ 87(2)(b) groin again, first placing his left hand just beneath § 87(2)(b) groin and then grabbing the right side of § 87(2)(b) groin. Simultaneous with the second grab, § 87(2)(b) states, “alright, alright officer, enough is enough with that.” He does not move.

In PO Suazorodas’ same BWC video, between 3:41 and 3:59, PO Suazorodas interacts with § 87(2)(b) person; however, his exact actions are not captured (BR 03). At 3:57, § 87(2)(b) says, “yo...” and PO Suazorodas asks, “what you got in there, bro?” § 87(2)(b) asks, “what are you talking about? Do you want me to take off my fucking pants? Yo, come on, don’t do that shit, man. You’re grabbing on my fucking dick and shit.” Up until this point § 87(2)(b) has stood with his hands raised while officers searched his clothes and person. PO Suazorodas states, “no, you don’t do that!” PO Suazorodas then tells PO Fontana to take his place in searching § 87(2)(b). At 4:15, § 87(2)(b) tells the officers that he’ll take off his pants, and goes on to say, “I’m gonna take off my fucking pants because you wanna grab on my dick and everything man. What the fuck is wrong with you, man...why are you so intense for? You just fucking violated, grabbing my fucking dick.” PO Suazorodas says he did not grab § 87(2)(b) and § 87(2)(b) yells that he did grab his “dick.”

PO Suazorodas testified that § 87(2)(b) was under arrest for narcotics trafficking when officers stopped him (BR 10). A Field Intelligence Officer had observed on an ARGUS camera what they believed to be § 87(2)(b) engaging in a hand-to-hand drug transaction and had contemporaneously called PO Fontana to relay that information. PO Suazorodas stated that when officers began searching § 87(2)(b) was “cooperative,” “compliant,” and was “being a gentleman,” but that as the search went on § 87(2)(b) alleged that PO Suazorodas touched § 87(2)(b) “parts” and § 87(2)(b) became “irate.”

PO Suazorodas stated that while searching § 87(2)(b) PO Suazorodas put his hands into § 87(2)(b) waistband. He stated he did not have a specific belief that § 87(2)(b) had a weapon in his waistband, but that putting his fingers into § 87(2)(b) waistband was “the only way” he could tell whether § 87(2)(b) might have been armed. PO Suazorodas stated that when he moved his fingers towards § 87(2)(b) belt buckle § 87(2)(b) “jumped.” PO Suazorodas testified that he did not touch § 87(2)(b) penis during the incident. (BR 10)

After watching his BWC recording from the incident, PO Suazorodas stated he wished to amend his earlier statement to include that he searched § 87(2)(b) groin. PO Suazorodas testified that he searched § 87(2)(b) groin area three times. He reiterated that he did not grab § 87(2)(b) penis. PO Suazorodas initially stated he could not recall why he searched § 87(2)(b) groin twice more after his initial search. He later stated that he searched § 87(2)(b) groin two more times because § 87(2)(b) moved when PO Suazorodas searched § 87(2)(b) groin the first time, making PO Suazorodas unable to determine whether there was anything in § 87(2)(b) groin area. (BR 10)

PO Suazorodas stated none of the searches of either § 87(2)(b) groin area or the rest of his person recovered contraband. (BR 10)

PO Fontana stated that he searched § 87(2)(b) left side (BR 13). PO Suazorodas searched the front and right of § 87(2)(b) person. § 87(2)(b) “got upset” when PO Suazorodas searched near § 87(2)(b) waistband. PO Fontana did not have a clear view of what exactly PO Suazorodas was doing because PO Fontana was focused on his own search of § 87(2)(b) said “something like, ‘You’re touching my dick’.”

During his CCRB statement, Sgt. Simpson stated that PO Suazorodas “went around § 87(2)(b) waistband.” (BR 24) He was standing to the right of § 87(2)(b). When asked, Sgt. Simpson stated that he did not recall whether § 87(2)(b) was searched at the pants. As PO Suazorodas searched § 87(2)(b) waistband, § 87(2)(b) became irate and alleged that PO Suazorodas touched his “dick.” Sgt. Simpson did not see PO Suazorodas touch or grab § 87(2)(b) penis. § 87(2)(b) repeated that allegation multiple times.

After the incident concluded § 87(2)(b) called 911, and Captain Krystin Suarez, also of the 70th Precinct, responded to location and attempted to speak with § 87(2)(b) however, he refused to provide her his identifying information or details about the incident in question. (BR 25) In her statement to IAB, Captain Suarez stated that she was not involved until after the incident concluded

and officers left the scene. (BR 25) She did not witness the incident or speak with § 87(2)(b) on scene. Based on what she communicated to IAB, it was determined that she did not have additional information related to the incident that would aid the investigation.

Despite PO Suazorodas denying § 87(2)(b) allegation that he grabbed § 87(2)(b) penis, the BWC occurrences identified above confirm that PO Suazorodas did in fact grab § 87(2)(b) penis. The investigation identified two instances where PO Suazorodas is captured grabbing § 87(2)(b) penis twice; however, based on § 87(2)(b) and PO Suazorodas' interaction captured between 3:41 and 4:40 of PO Suazorodas' BWC (BR 03), the investigation has determined by a preponderance of the evidence that PO Suazorodas touched § 87(2)(b) groin area a third time.

Patrol Guide Procedure 208-05, regarding frisks and field searches of arrested persons, states, "A thorough external body examination is made by sliding the hand over the subject's body, feeling for weapons or other objects, with special attention to the waistband, armpit, collar, and groin areas. If an unusual object is detected, the officer will reach into or under the clothing to remove it." (BR 11)

Patrol Guide Procedure 203-09 states, "Officers must interact with members of the public in a professional manner." (BR 12)

BWC evidence shows that PO Suazorodas ran his hands over § 87(2)(b) genital area, squeezed § 87(2)(b) penis multiple times, and pulled back and forth on § 87(2)(b) genitalia. As § 87(2)(b) was under arrest during this incident, Patrol Guide Procedure 208-05 authorized PO Suazorodas to slide his hand over § 87(2)(b) body to feel for weapons or other objects and directed him to pay "special attention" to § 87(2)(b) groin area.

PO Suazorodas alleging that § 87(2)(b) rendered his first search invalid by moving while it occurred is disproven by BWC footage. § 87(2)(b) does not obstruct PO Suazorodas' search of his person at any point. BWC further shows that PO Suazorodas deliberately groped § 87(2)(b) groin area a second time, and strongly supports that he did so a third time. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Abuse of Authority: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana interfered with § 87(2)(b) use of a recording device.

Allegation (C) Force: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana used physical force against § 87(2)(b)

Allegation (D) Abuse of Authority: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana damaged § 87(2)(b) property.

Allegation (E) Discourtesy: On November 28, 2021, outside 1060 Flatbush Avenue in Brooklyn, Police Officer Marc Fontana spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that during the incident PO Fontana slapped § 87(2)(b) phone out of § 87(2)(b) hand and said, "Don't fucking record here." § 87(2)(b) phone hit the ground, and when § 87(2)(b) picked it up the phone screen was damaged. (BR 09)

§ 87(2)(b) provided a photograph of a damage cell phone. (BR 02)

In Sergeant Simpson's BWC video, the officers are depicted interacting with § 87(2)(b) for approximately five minutes and 40 seconds. (BR 05) Beginning at 4:50, § 87(2)(b) states to PO Suazorodas, "hold up, let me take my picture of you." § 87(2)(b) takes out his cell phone, opens his camera, and points his camera at PO Suazorodas's nameplate and shield. PO Suazorodas faces § 87(2)(b) for two to three seconds, turns his back on § 87(2)(b) while § 87(2)(b) is still attempting to photograph PO Suazorodas's identifiers, and begins walking away from § 87(2)(b). § 87(2)(b) takes two steps towards PO Suazorodas but does not continue to pursue him. § 87(2)(b) states repeatedly, "come right here." PO Fontana states, "nah, nah, nah – you can't take a picture." § 87(2)(g)

§ 87(2)(b) turns his camera to PO Fontana. § 87(2)(b) keeps both his hands on his phone, does not extend his arms towards PO Fontana, and does not move toward PO Fontana. PO Fontana immediately extends his right arm, covers the cameras on § 87(2)(b) phone, and pushes the phone down. § 87(2)(b) retains hold of his phone and states, “don’t grab my phone.” He takes a step back from PO Fontana. PO Fontana states, “you can’t take a picture of us.” § 87(2)(b) takes another step back from PO Fontana and holds up his phone towards PO Fontana again. PO Fontana raises his arm, slaps § 87(2)(b) phone out of § 87(2)(b) hand, and states, “don’t fucking take a picture of me! You understand? You got my shield number, that’s all you need. All you need is my shield number, that’s it.” § 87(2)(b) picks up his phone and states, “ay, you broke my fucking phone!” PO Fontana states, “well, I told you not to take a picture of me. You cannot do that. Alright?” § 87(2)(b) turns his phone screen to face PO Fontana and shows PO Fontana the damage. The damage to the phone is clearly visible for approximately six seconds. § 87(2)(b) repeatedly asks, “who’s going to pay for my fucking phone?” PO Fontana states, “I told you not to take a picture of us.” § 87(2)(b) states, “what are you talking about?” While § 87(2)(b) is talking PO Fontana states, “You can’t take a picture of us.” § 87(2)(b) continues, “You’re a public servant! I can take a fucking picture.” PO Fontana states, “Nope. All you get is our name and shield.” § 87(2)(b) says, “I can take a picture!” PO Fontana states, “no you can’t.” (BR 05)

This information is also captured by PO Fontana’s BWC recording between 04:49 and 05:45. (BR 04)

This information is partially captured by PO Suazorodas’s BWC between 04:51 and 05:45. (BR 03)

This information is partially captured by the barbershop surveillance footage. (BR 06)

This information is partly captured by ARGUS footage between 12:23:57 and 12:25:05. (BR 07) This corresponds to 23:57 through 25:05 in the MP4 version of the file. (BR 08)

PO Fontana initially testified to the CCRB that when § 87(2)(b) took out his phone, § 87(2)(b) got “very, very close” to PO Fontana. PO Fontana testified he feared for his safety because he thought § 87(2)(b) phone could be concealing a taser or a knife. PO Fontana testified that he “put [his] hands up to create distance” and stated, § 87(2)(b) dropped his phone. Or it fell to the ground.” He testified he did not slap § 87(2)(b) phone, and that when § 87(2)(b) alleged that his phone had sustained damage § 87(2)(b) only “flashed” his phone at PO Fontana in a motion that was over too quickly for PO Fontana to have been able to see whether there was damage on the phone. PO Fontana testified that he told § 87(2)(b) that § 87(2)(b) was permitted to take photographs of officers, but that § 87(2)(b) had gotten too close to them. PO Fontana acknowledged that he used the word “fucking” while speaking to § 87(2)(b) but did not recall the context. (BR 13)

PO Fontana watched the above-referenced section of Sergeant Simpson’s BWC recording of the incident and stated he did not wish to amend any of his prior statements. Upon questioning, PO Fontana acknowledged that the video shows he repeatedly told § 87(2)(b) that § 87(2)(b) was not permitted to take photographs of police officers. PO Fontana amended his testimony to state that during the incident he had meant to communicate that § 87(2)(b) was not permitted to take photos of officers “that close,” but that all he had said was that § 87(2)(b) was not permitted to take photographs. PO Fontana stated that he should have “articulated [himself] better.” PO Fontana maintained throughout the remainder of his testimony that each time he repeated to § 87(2)(b) that § 87(2)(b) was not permitted to take photographs of officers, what PO Fontana meant at the time was that § 87(2)(b) was permitted to take photographs from officers so long as he was farther away from them. (BR 13)

After multiple viewings of BWC footage showing himself slapping § 87(2)(b) phone out of § 87(2)(b) hand, PO Fontana amended his statement to say that he did not independently recall slapping § 87(2)(b) hands and phone. PO Fontana stated that § 87(2)(b) had extended his arms towards PO Fontana during the incident, and that PO Fontana had raised his own arms out of an “abundance of caution.” The investigation directed PO Fontana’s attention to BWC footage

showing § 87(2)(b) did not extend his arms towards PO Fontana. PO Fontana acknowledged that the footage showed § 87(2)(b) did not extend his arms and did not amend his testimony.

After viewing BWC footage showing that § 87(2)(b) showed his damaged phone to PO Fontana for longer than the “flash” to which PO Fontana testified, PO Fontana amended his testimony to state that when § 87(2)(b) showed him the phone it did not look damaged to PO Fontana. (BR 13)

Sgt. Simpson stated that at the end of the interaction, he heard a loud sound of “something hitting the ground.” (BR 24) He did not see it happen, so he did not know what fell and how it went to the ground; however, he heard § 87(2)(b) allege that one of the officers broke his phone. Sgt. Simpson did not see PO Fontana smack the § 87(2)(b) phone out of his hand. Sgt. Simpson did not see § 87(2)(b) phone to see that it was damaged.

After the incident concluded § 87(2)(b) called 911, and Captain Krystin Suarez, also of the 70th Precinct, responded to location and attempted to speak with § 87(2)(b) however, he refused to provide her his identifying information or details about the incident in question. (BR 25) In her statement to IAB, Captain Suarez stated that she was not involved until after the incident concluded and officers left the scene. (BR 25) She did not witness the incident or speak with § 87(2)(b) on scene. Based on what she communicated to IAB, it was determined that she did not have additional information related to the incident that would aid the investigation.

Frames from Sergeant Simpson’s BWC recording and PO Suazorodas’s BWC recording show that § 87(2)(b) phone was undamaged before PO Fontana struck it to the ground, that the phone was damaged after PO Fontana struck it to the ground, and that the damage it sustained is consistent with the damage shown in the photograph § 87(2)(b) provided to the investigation after the incident. (BR 14)

Between the moment § 87(2)(b) takes his phone out, at 4:50 of Sgt. Simpson’s BWC video, and the officers getting back in their unmarked vehicle, at 6:40, the officers do not take any additional police action toward § 87(2)(b) (BR 05). As he takes his phone out, PO Suazorodas offers him a business card. Also, during that time, § 87(2)(b) is allowed to move freely in front of them on the sidewalk, ultimately walking away from them completely without objection from the officers. For these reasons, the investigation is crediting that § 87(2)(b) was no longer under arrest when he took his phone out to capture officer identifying information.

NYPD Administrative Guide 304-21 states, “Individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of force. The right to lawfully observe and/or record police activity extends to individuals in public places, such as streets, sidewalks, and parks, as well as private property in which the individual has a legal right to be present, such as buildings, lobbies, workplaces or an individual’s own property. This right to observe and/or record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual(s) who are observing/recording.” It further states officer may not, “Intentionally prevent, or attempt to prevent, an individual from recording police activities.” (BR 15)

New York City Administrative Code 14-189 (“Right to record police activities”) states, “The term ‘police activities’ means any activity of an officer acting under the color of law.” It further states, “The term ‘record’ means to capture or attempt to capture any moving or still image, sound, or impression through the use of any recording device, camera, or any other device capable of capturing audio, moving or still images, or by way of written notes or observations.” (BR 16)

Patrol Guide Procedure 221-01 states, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.” (BR 17)

Patrol Guide Procedure 200-02 states officers pledge to, “render [their] services with courtesy and civility.” (BR 18)

PO Fontana’s testimony that he raised his arms out of a concern for his safety after § 87(2)(b)

§ 87(2)(b) got uncomfortably close to PO Fontana is disproven by video evidence showing that § 87(2)(b) took several steps away from PO Fontana during the incident, that PO Fontana moved toward § 87(2)(b) in order to slap § 87(2)(b) phone, that PO Fontana's slap of the phone was deliberate, and that when he slapped the phone, PO Fontana articulated his own mind by stating, "don't fucking take a picture of me! You understand? You got my shield number, that's all you need. All you need is my shield number, that's it."

Furthermore, when § 87(2)(b) took out his phone, he did so explicitly to obtain officers' identifying information after the officers completed their stop and search of his person.

§ 87(2)(g)

Allegation (F) Untruthful Statement: On March 23, 2022, at the CCRB, Police Officer Adan Suazorodas provided a false official statement to the CCRB.

On March 23, 2022, while testifying at the CCRB, PO Suazorodas repeatedly testified that he did not grab § 87(2)(b) penis during the incident. After watching video evidence that contradicted his testimony, PO Suazorodas reiterated that he did not grab § 87(2)(b) penis and testified, "my hand is facing outwards, trying to feel between his legs and his groin area." After the interviewing investigator directed PO Suazorodas's attention to video footage of PO Suazorodas's hand facing inwards and closed around § 87(2)(b) genitalia, PO Suazorodas testified that he did not recall grabbing § 87(2)(b) penis. He watched the relevant footage again and stated that did not grab § 87(2)(b) penis. He later stated that he did not recall grabbing § 87(2)(b) penis. (BR 10)

Relevant video evidence is outlined above in Allegation A.

NYPD Administrative Guide 304-10 offers the following definitions:

"FALSE STATEMENT - An intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made."

"MATERIAL FACT - A significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail." (BR 19)

DCT Case Number 2016-16097 held that in order to prove a false statement, it must be demonstrated that the statement was not only false but created a "false description of events," as opposed to statements that merely deny an administrative charge of misconduct. (BR 20)

Video evidence shows that PO Suazorodas grabbed § 87(2)(b) penis during the incident. PO Suazorodas testified that he did not. When confronted with evidence contradicting his statements, he maintained that he did not grab § 87(2)(b) penis and gave specific testimony about the placement of his hands during the moments in questions. After the interviewing investigator directed PO Suazorodas's attention to footage directly contradicting PO Suazorodas's description of events, PO Suazorodas vacillated between alleging that he did not recall the alleged action and stating that he did not take it.

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Untruthful Statement: On May 19, 2022, at the CCRB, Police Officer Marc Fontana provided a false official statement to the CCRB.

On May 19, 2022, while testifying at the CCRB, PO Fontana testified that § 87(2)(b) got extremely close to PO Fontana, that § 87(2)(b) extended his arms towards PO Fontana, that the physical force PO Fontana used against § 87(2)(b) was not intended to stop § 87(2)(b) from recording, and that his repeated statements to § 87(2)(b) that § 87(2)(b) was not permitted to take photographs of officers were all meant by PO Fontana to communicate that § 87(2)(b) was permitted to take photographs of officers from a distance. He maintained this testimony after he was shown video evidence contradicting it. When specifically asked to respond to video showing that § 87(2)(b) did not extend his arms towards PO Fontana as PO Fontana described in his testimony, PO Fontana stated, “alright, I see what you’re saying.” He stated, “when you’re there, you’re not looking at the angle of his arm, you’re looking at what’s there, what’s a threat.” (BR 13)

Relevant video evidence is discussed above in Allegations B-E.

NYPD Administrative Guide 304-10 offers the following definitions:

“FALSE STATEMENT - An intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made.”

“MATERIAL FACT - A significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail.” (BR 19)

DCT Case Number 2016-16097 held that in order to prove a false statement, it must be demonstrated that the statement was not only false but created a “false description of events,” as opposed to statements that merely deny an administrative charge of misconduct. (BR 20)

PO Fontana testified to a specific recollection of how § 87(2)(b) used his arms, watched video evidence that contradicted his testimony, and then testified, “when you’re there, you’re not looking at the angle of his arm.” PO Fontana testified that he raised his own arms only to create distance between himself and § 87(2)(b) watched video evidence that showed § 87(2)(b) took steps away from PO Fontana and that PO Fontana moved toward § 87(2)(b) to slap § 87(2)(b) phone, and maintained his testimony. PO Fontana testified that in all instances in which he communicated that § 87(2)(b) was not permitted to take photographs, what he meant in the moment was that § 87(2)(b) was permitted to take photographs from a reasonable distance. PO Fontana watched video evidence that includes himself stating, “don’t fucking take a picture of me! You understand? You got my shield number, that’s all you need. All you need is my shield number, that’s it,” footage that includes PO Fontana stating, “I told you not to take a picture of me. You cannot do that,” footage that includes PO Fontana stating, in response to § 87(2)(b) asserting his right to take photographs of officers, “Nope, all you get is our name and shield.” After viewing this

footage, PO Fontana maintained none of his statements was meant to communicate to § 87(2)(b) that § 87(2)(b) was not allowed to take a picture of PO Fontana.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. (BR 21)
- PO Suazorodas has been a member of service for 5 years and has been a subject in two other CCRB complaints and five other allegations of which two were substantiated.:
 - § 87(2)(g)
 - § 87(2)(g)
- PO Fontana has been a member of service for 10 years and has been a subject in five other CCRB complaints and ten other allegations of which five were substantiated.:
 - 201311018 involved substantiated allegations of Frisk and Vehicle search against PO Fontana. The Board recommended Charges, he was found guilty in an APU trial, and the NYPD imposed a forfeit of 5 vacation days.
 - 201312036 involved substantiated allegations of Search of person and Stop against PO Fontana. The Board recommended Charges, he was found guilty in an APU trial, and the NYPD imposed a forfeit of 5 vacation days.
 - 201809797 involved substantiated allegations of Refusal to provide shield number against PO Fontana. The Board recommended Command Discipline – B and the NYPD imposed Command Discipline – A.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical and psychological injuries, conscious pain and suffering, loss of enjoyment of life, and incurred and to be incurred economic loss, and seeking \$1,000,000 as redress (BR 22). § 87(2)(a)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 09

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Wassim Abedrabbo Signature	IM Wassim Abedrabbo Print Title & Name	1/31/2023 Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date